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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In Re Application of: <b>Parmelee, et al.</b>	)	
	)	<b>Art Unit 2133</b>
Serial No.: <b>09/683,943</b>	)	
	)	
Confirm. No.: <b>5493</b>	)	
	)	
Filed: <b>March 5, 2002</b>	)	<b>Patent Examiner</b>
	)	<b>Nadia Khoshnoodi</b>
For: <b>Automated Transaction System</b>	)	
<b>Digital Signature System And Method</b>	)	

Mail Stop Amendment  
Commissioner for Patents  
PO Box 1450  
Alexandria, VA 22313-1450

**PRE-APPEAL BRIEF REQUEST FOR REVIEW**

Sir:

Applicants' request review of the rejections in the above-identified application.  
No amendments are being filed with this Request. This Request is being filed with a Notice of Appeal.

The review is requested for the following reasons:

**The Wheeler Publication does not qualify as prior art under 35 U.S.C. § 103(a). Therefore the rejections of claims 1-41 based on the Wheeler Publication should be withdrawn**

The present application claims the benefit under 35 U.S.C. § 119 (e) of U.S. Provisional Application Nos. 60/273,996 filed March 7, 2001 and 60/319,015 filed November 29, 2001. All of Applicants' independent claims (and most if not all of Applicants' dependent claims) are fully supported by the earliest of these provisionals, and therefore are entitled to priority back to March 7, 2001.

The primary reference, Wheeler, et al., Publication No. U.S. 2002/0026575, ("**Wheeler publication**") was published on February 28, 2002 and corresponds to U.S. application no. 09/923,179, ("**Wheeler application**") filed on August 6, 2001. These filing and publication dates are both after Applicants' effective filing date of March 7, 2001.

The Wheeler application is continuation-in-part of application no. 09/189,159 filed on November 9, 1998 which is now U.S. Patent No. 6,820,202 ("**Wheeler Patent**"). The Wheeler application also claims benefit of provisional application no. 60/223,076 ("**Wheeler provisional**") filed on August 4, 2000. However, the specifications of the Wheeler Patent and the Wheeler provisional are not identical to the specification of the Wheeler publication. In particular the Wheeler provisional has no drawings and includes a written description which does not correspond to the written description in the Wheeler publication.

The rejections of all of Applicants' claims in the Action were based on citations to one or more of the paragraphs [109], [108-115], [117], [118], [120], [129-132], [145], [170], [172], [183-190] in the Wheeler publication. However, these paragraphs are not included in the Wheeler provisional, and Applicants have found no corresponding disclosure in the Wheeler provisional. In addition, these paragraphs are also not included in the Wheeler Patent, and

Applicants have found no corresponding disclosure to these specifically cited paragraphs in the Wheeler publication, in the Wheeler Patent.

The portions of the Wheeler publication relied upon in the Action to support the rejections of claims 1- 41 have an effective date of only August 6, 2001 and do not qualify as prior art against Applicants who have an effective filing date for the claimed invention of March 7, 2001. The Office has not addressed let alone established that the portions of the Wheeler publication relied on to support the rejections are entitled to prior art status. It follows that the Office has failed to establish a conclusion of *prima facie* obviousness and the rejections of claims 1-41 should be withdrawn.

**The Meurer publication does not qualify as prior art under 35 U.S.C. § 103(a). Therefore the rejections of claims 17, 18 and 24 based on Meurer should be withdrawn**

Applicants' U.S. Provisional Application No. 60/273,996 filed March 7, 2001 fully supports the subject matter recited in claims 17, 18, and 24.

The secondary reference of Meurer, Publication No. U.S. 2004/0215566 A1, ("Meurer publication") was published on July 7, 2004 and corresponds to U.S. application no. 09/990,755 ("Meurer application") filed on November 14, 2001. The Meurer application claims the benefit of U.S. provisional application nos. 60/255,985 filed December 15, 2000 ("Meurer '985 provisional") and 60/291,864 filed May 18, 2001. Of these two Meurer provisionals, only the Meurer '985 provisional was filed earlier than Applicants' March 7, 2001 effective filing date.

The Meurer '985 provisional appears to be a User's Manual for a software package entitled "ATM Manager Pro". The Meurer '985 provisional does not have a written description which corresponds to the written description in the Meurer publication. The rejections of claims

17, 18 and 24 were based on citations to paragraph [0013] in the Meurer publication. However, this paragraph is not included in the Meurer '985 provisional. Applicants have found no disclosure corresponding to paragraph [0013] of the Meurer publication in the Meurer '985 provisional.

Paragraph [0013] of the Meurer '985 provisional which was relied upon in the Action to support the rejections of claims 17, 18 and 24 does not qualify as prior art against Applicants' claimed invention which has a March 7, 2001 effective filing date. The Office has not addressed let alone established that the portions of the Meurer publication relied on to support the rejections are entitled to prior art status. It follows that the Office has failed to establish *prima facie* obviousness, and the rejections of claims 17, 18, and 24 should be withdrawn.

Respectfully submitted,

Customer No. 28995  
231 South Broadway  
Medina, Ohio 44256  
(330) 722-5143

  
Ralph E. Jocke

Reg. No. 31,029